

BILL ANALYSIS

AB 233
Page 1

Date of Hearing: March 19, 1997

ASSEMBLY COMMITTEE ON JUDICIARY
Martha M. Escutia, Chairwoman

AB 233 (Escutia) - As Amended: March 10, 1997

SUBJECT : Trial Court Funding.

KEY ISSUE : SHOULD FUNDING FOR TRIAL COURT OPERATIONS BE CONSOLIDATED AT THE STATE LEVEL BEGINNING NEXT FISCAL YEAR (1997-98), WITH COUNTY FUNDING OF THE COURTS FROZEN AT THE 1994-95 LEVEL?

SUMMARY : This bill transfers principal funding responsibility for trial court operations to the state beginning in the 1997-98 fiscal year (FY) while freezing county contributions at the FY 1994-95 levels. It also raises certain civil court fees; creates task forces regarding court facilities and the status of court employees; requires the Judicial Council (JC) to decentralize trial court management; and provides for a civil delay reduction team. The bill also assumes that the JC has adopted rules of court governing court employee labor relations and provides that those rules shall be interpreted and may be enforced pursuant to existing labor law.

EXISTING LAW :

- 1) Presently, trial court operations are funded by the state (approximately 40%) and the counties (approximately 60%).
- 2) The state share of trial court operations costs for the current year is approximately \$621 million, including \$174.5 million appropriated from the GF to the Trial Court Trust Fund (TCTF); \$156 million from various civil fees appropriated in the TCTF; and \$290.5 million in fine and penalty revenues appropriated from the GF to the TCTF.

FISCAL EFFECT :

- 1) Caps counties' general fund (GF) support of the trial courts at \$879 million and caps the fines and forfeitures equivalent (remitted by counties) at \$280 million.
- 2) Eliminates the county GF obligation to the trial courts for the 20 smallest counties.
- 3) Generates approximately \$88 million annually in new revenue from civil fee adjustments beginning in 1997-98 FY.

COMMENTS :

- 1) Existing law , as embodied in the Trial Court Realignment and Efficiency Act of 1991, provides for the state to fund specified court operations costs as appropriated annually in the Budget Act. The remainder of court costs (approximately

AB 233
Page 2

60%) are funded by the counties.

This bill enacts the Trial Court Funding and Improvement Act of 1997 to provide for a permanent restructuring of trial court funding beginning in FY 1997-98. The bill provides that, beginning in the FY 1997-98, funding of the trial courts will be consolidated at the state level and that the state shall have responsibility for court costs over the FY 1994-95 level of expenditure, as determined in the annual state budget process.

- 2) Existing law does not limit the trial court funding obligation of the counties.

This bill provides that county contributions to trial court operations shall be capped permanently at the level at which counties supported the courts in FY 1994-95 based on: a) the amount of county GF dollars provided to the courts; and b) the amount of fines and penalties the county remitted to the state

in FY 1994-95.

- 3) Existing law does not specifically provide for relief to certain counties for the costs of operating the trial courts.

This bill provides that counties with a population of 70,000 or less as of January 1, 1996, that have met specified trial court coordination requirements, shall have their annual contribution reduced by the county GF amount provided to the courts in FY 1994-95.

- 4) Existing law, Section 77003 of the Government Code and Rule 810 of the California Rules of Court, define what are "court operations" for the purposes of trial court funding.

This bill clarifies the respective responsibilities of the state and the counties for funding the courts, with the state having responsibility for court operations and the counties having responsibility for facility operations. This bill also provides a mechanism for adjusting a county's base year contribution to the trial courts.

- 5) Existing law, Government Code Section 68073, authorizes a court to order a county to provide funding for court functions not adequately funded by the state.

This bill eliminates that authority except as it relates to the counties' continuing responsibility to provide suitable court facilities.

- 6) Existing law requires counties to remit to the state certain fine, penalty and forfeiture revenues collected by the courts.

This bill provides that all such fine and penalty revenues collected by the courts shall be retained by the counties to offset their trial court funding obligation. It also provides that the growth in such revenues shall be split with the state,

as specified. Funds remitted to the state under these provisions would be deposited into the Trial Court Improvement Fund (TCIF) and ear- marked for court-related costs.

- 7) Existing law provides for certain local court authority over the expenditure of state funding for the courts.

This bill clarifies that authority and acknowledges the need for independent local court management by providing that the JC shall provide for a Trial Courts Bill of Financial Management Rights and establish a decentralized system of trial court management no later than January 1, 1998.

- 8) Existing law provides for the creation of local trial court operations funds to be established in each county treasury for the purposes of trial court funding.

This bill establishes a Trial Court Operations Fund (TCOF) in each county treasury into which all funds appropriated in the Budget Act shall be deposited for trial court funding. The Controller is authorized to provide fiscal and compliance audits of this fund at the request of the Legislature or the JC.

- 9) Existing law sets the amount of various civil fees.

This bill adjusts specified civil fees to generate an estimated \$88 million for the support of the trial courts. (See attached chart of these fee adjustments.)

- 10) Existing law establishes the Trial Court Improvement Fund to be used for specified court purposes.

This bill provides that the JC shall reserve in the Trial Court Improvement Fund up to 1% of the annual total trial court funding appropriation for allocation by the JC for urgent court needs, to reward court coordination, and to fund statewide projects for the benefit of the trial courts.

- 11) Existing law, as embodied in the Meyer-Milias-Brown Act (MMBA), governs the labor-management relationships of California local governments. MMBA recognizes the right of local public employees to join and be represented by employee organizations of their own choosing. In 1988, the Legislature amended MMBA to include trial court employees. The 1988 amendment mandated

that municipal and superior court employees be considered employees of the county for all matters within the scope of representation. In *American Federation of State, County, and Municipal Employees v. County of San Diego* (1992) 11 Cal. App. 4th 506, the court held that other statutory law provides that a majority of the judges of the superior courts must determine "noneconomic" benefits of superior court employees and that in doing so the judges are not required to meet and confer with court employees. Noneconomic benefits are those benefits within the courts' (as opposed to the counties') authority to determine.

AB 233
Page 4

This bill makes a finding that the JC has adopted rules of court which create a mechanism for setting the terms and conditions of employment between a trial court and its employees, or their representatives; recognize that these rules have the full force and effect of law; and provide that they shall be interpreted and may be enforced pursuant to existing law. This bill further provides that in enacting these provisions, the legislature's purpose is to create an equitable and effective method of resolving potential labor conflicts between the courts and their employees.

- 12) Existing law does not address the status of court employees under a state funded trial court system.

This bill establishes a Task Force on Court Employees to recommend by June 1, 1999, an appropriate system of employment and governance for trial court employees. The bill expresses legislative intent to enact a court personnel system to take effect on or before January 1, 2001.

- 13) Existing law does not allow the use of county funds to pay for a judge's member contribution to the Judges Retirement Fund (JRF).

This bill would authorize a county, upon adoption of a resolution by the Board of Supervisors, to pay for a judge's member contribution to the JRF.

- 14) Existing law does not address the responsibilities of state and local government to provide for court facilities under a state funded trial court system.

This bill establishes a Task Force on Trial Court Facilities to: a) identify the needs related to trial and appellate court facilities; b) make recommendations for funding court facility maintenance, improvements, and expansion; and c) to submit a report to the JC, the Legislature, and the Governor on or before July 1, 2001.

- 15) Existing law does not statutorily authorize the JC to provide by rule of court for racial, ethnic, gender bias, and sexual harassment training for judicial officers.

This bill statutorily permits, but does not require, the JC to provide for such training by rule of court.

- 16) Existing law does not provide for a special program to reduce civil delay in the trial courts.

This bill establishes a Civil Delay Reduction Team comprised of assigned judges under the authority of the Chief Justice to assist counties and courts in reducing or eliminating the delay in adjudicating civil cases.

RELATED PRIOR AND PENDING LEGISLATION: AB 2553 (Isenberg) of

1995-96 and AB 86 (Pringle) of 1997.

ARGUMENTS IN SUPPORT : The author states the following: "This bill fully implements the long-term trial court funding agreement entered into by the courts, the counties, and the court employee

groups. The bill promotes fiscal responsibility and accountability by the trial courts in managing scarce resources in the most efficient and effective manner. By consolidating trial court funding at the state level, this bill addresses the long-standing problem of funding stability and alleviates the courts from the funding crisis that exists as a result of split funding between the state and the counties. The current funding mechanism has also made it difficult for the courts, the state and the counties to engage in long term planning, limits a fair allocation of resources among all courts, and impairs equal access to justice. In addition, my bill preserves the right of court employees to engage in collective bargaining same as county employees. Finally, my bill authorizes but does not mandate the JC to provide for bias and harassment training. As eloquently documented in the recent hearing about the JC's own examination of racial and ethnic bias in the courts, this training is critically needed for all of our judicial officers. Currently, only judges appointed since 1996 are required to receive it."

ARGUMENTS IN OPPOSITION : None

STAFF NOTES : The two bills before the Committee today, AB 233 (Escutia) and AB 86 (Pringle) both provide for restructuring of trial court funding. The primary differences between the two bills are as follows:

- 1) AB 86 implements the court funding restructuring in the current FY at an estimated GF cost of approximately \$101 million, including an estimated \$11 million to buy-out the contribution of the 20 smallest counties. AB 233 implements the restructuring of trial court funding and the small county buy-out beginning in FY 1997-98 (as proposed in the Governor's Budget), and therefore will not result in the estimated \$101 million GF cost this FY.
- 2) AB 233 references Rules of Court to be adopted by the JC that would extend to trial court employees the right to meet and confer on certain terms and conditions of employment. AB 86 does not address this collective bargaining issue.
- 3) AB 233 authorizes the JC to provide by rule of court for racial, ethnic, gender bias, and sexual harassment training for judicial officers. AB 86 does not address the issue.

PROPOSED AMENDMENTS :

- 1) Section 68073 (b) Substitute on page 20, line 10: "1997" for "1996"
- 2) Amendments proposed by Los Angeles County would allow that county to petition the Department of Finance to reduce its

AB 233
Page 6

funding obligation to the state in support of trial court funding by the amount the Department of Fiance county determines it paid for court facility costs in FY 1994-95. The amendments further provide that no offset of this funding reduction is required by the State. This amendment could result in an estimated reduction in trial court funding of up to \$20 million in FY 1997-98.

Other provisions of AB 233 already provide a mechanism that could reimburse a portion of these costs over a three year period through projected increases in criminal fine revenues. Adoption of these amendments would not reflect the agreement reached by the courts, counties and court employees for long-term restructuring of trial court funding.

REGISTERED SUPPORT / OPPOSITION :

Support

Opposition

The Alameda County Courts	None to date
American Federation of State, County and Municipal Employees (AFSCME)	
CA. State Assoc. of Counties (CSAC)	
County of San Joaquin Judicial Council	
Service Employees International Union (SEIU)	

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